

**UNITED STATES DISTRICT COURT**

**FOR THE NORTHERN DISTRICT OF CALIFORNIA**

## OSCAR GATES,

Petitioner,

V.

KEVIN CHAPPELL,

## 16 || Warden of San Quentin State Prison,

## Respondent.

No. C 88-2779 WHA

## **DEATH-PENALTY CASE**

ORDER

Petitioner is a condemned inmate at San Quentin State Prison. Although he is represented by counsel, petitioner has recently filed a motion *in propria persona* and without the assistance of counsel. *See* Docket #662, filed January 2, 2014. In this motion, petitioner objects to any transfer for a psychiatric evaluation, and also moves to disqualify his counsel and represent himself in these habeas proceedings.

Per an Order filed December 20, 2013, this Court denied without prejudice the motion for transfer and restoration filed by petitioner's counsel. Accordingly, petitioner's opposition to transfer is currently moot.

The Court also DENIES petitioner's motion to disqualify counsel and proceed *in propria persona*. The right to self-representation does not extend to post-conviction proceedings.

*Martinez v. Court of Appeal of California*, 528 U.S. 152, 163 (2000); *Tamalini v. Stewart*, 249 F.

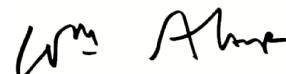
1 3d 895, 901-902 (9th Cir. 2001). The Court, exercising its discretion, finds that self-  
2 representation would not be in petitioner's best interests. Petitioner is currently represented by  
3 experienced counsel with the advantage of skill, training and ability. Procedural rules would not  
4 be relaxed if petitioner represented himself, and no assistance can be rendered by the Court.  
5 Self-representation is often unwise, and considering the complexity of capital habeas litigation,  
6 and the fact that petitioner has been adjudicated incompetent, would likely be detrimental to  
7 petitioner.

8 Additionally, within fourteen (14) days of the date of this Order, counsel for petitioner is  
9 ORDERED to meet with petitioner, and subsequently file a response to the allegations made in  
10 petitioner's *pro se* motion. The Clerk of Court shall terminate all pending motions.

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12 **IT IS SO ORDERED.**

13 DATED: January 9, 2014



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14 WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE

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